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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/704,379	11/02/2000	Fred Bishop	10655.7600	4909
20322	7590	10/17/2005	EXAMINER	
SNELL & WILMER ONE ARIZONA CENTER 400 EAST VAN BUREN PHOENIX, AZ 850040001			PATEL, JAGDISH	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/704,379

Applicant(s)

BISHOP ET AL.

Examiner

JAGDISH PATEL

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-64 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 2-10,15,16,19,21-25,38 and 5 3-64 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

1. This communication is in response to amendment filed 7/28/05.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/28/05 has been entered.

Response to Amendment

3. Claims 2-10,15,16,19,21-25,38 and 5 3-58 and 61-64 are currently pending of which claims 3, 6, 15, 22, 25, 38, and 57 have been amended and claims 61-64 have been newly added claims per amendment request.

Response to Arguments

4. Applicant's arguments with respect to the pending claims have been considered but are not persuasive in light of the newly amended claims. In particular, the applicant's argument that Shavit freight providers are not shipping agents for the parties with a functional relationship to the financial transaction elements, is not persuasive because no such functional relationship is

Art Unit: 3624

included in the claims. (see the following 112(second) analysis). The examiner has therefore maintained the rejection of the amended claims under Walker and Shavit references.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2-10,15,16,19,21-25,38 and 5 3-58 and 61-64 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Independent amended claim 6, which is representative of other independent claim has been analyzed. Other independent claim also contain similar defects.

Claim 6 is indefinite because various process steps recited do not functionally correlate to each other. Examples:

Limitation “said transaction between said first party and said second party” lacks antecedent basis in the claim. (refers to line 8 on p. 3)

The “registering” step recites registering a first party and second party with a transaction mechanism. However, the subsequent process steps are performed independent of the registering of the first party and the second party. In other words, all process steps are performed regardless of the transaction mechanism where the first party and the second party are registered. The claim recites “providing a shipping agent associated with said transaction mechanism, said shipping agent configured to transmit said item from said second party to said first party”. This limitation is interpreted to mean that a shipping agent is provided who can ship the item from the second

Art Unit: 3624

party (e.g. a seller) to the first party (e.g. a buyer). It is unclear, how a shipping agent (a service provider) can be configured to transmit an item from the first party to the second party, since it is interpreted that the shipping agent is a business entity or a human entity performing the shipping of the item.

The claim fails to specifically recite what role the transaction mechanism have in facilitating the transaction since all functions are carried out independent of the transaction mechanism. For example, the functions causing said item to received, debiting funds, causing said item to be delivered by said shipping agent, disbursing said funds and crediting said funds are all performed without any interaction with the transaction mechanism.

The steps specified in the later paragraph are not functionally related to each other. As an example, the debiting funds from the financial account of the first party does not relate to the causing the item to be received by the shipping agent. Similarly, causing the item to be delivered by the shipping agent to the first party is performed regardless of whether the funds are debited from the financial account of the first party. In absence, of such functional relationship the claimed invention is broadly interpreted to read on transaction mechanism as previously formulated in combination of the Walker and further in view of Shavit.

Claim Rejections - 35 USC § 103

6. Claims 2-10,15,16,19,21-25,38 and 5 3-58 and 61-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker and further in view of Shavit et al. (US 4,799,156) (Shavit).

As per claim 6, Walker teaches a method of facilitating commercial transactions, which method comprises the steps of:

Art Unit: 3624

registering a first party and a second party with a transaction mechanism having a financial account identifier for identifying a financial account associated with said first party;

(see col. 8 L 66 – col. 9 L 5; col. 13 L 1-10 and Fig. 5; see col. 15 L 46+ CPO)

receiving from at least one of said first party and said second party least one of a request to debit a financial account of said first party to effectuate purchase of an item between said first party and said second party;

(col. 9 L 32-43, funds transfer)

receiving from at least one of said first party and said second party transaction information relating to said transaction between said first party and said second party;

(buyer creates a CPO, see col. 8 L 66 – col. 9 L 5)

determining whether said transaction is acceptable based upon at least one of said transaction information between said first party and said second party;

(see Fig. 6, col. 17 L 27-47, see col. 22 “Delayed Payment Embodiment”)

debiting funds from financial account of said first party;

(see col. 22 “Delayed Payment Embodiment”)

disbursing funds to a financial account associated with said second party;

(see col. 22 “Delayed Payment Embodiment”)

crediting said funds to said financial account associated with said second party.

(see col. 22 “Delayed Payment Embodiment”)

Walker fails to teach the step of providing a shipping agent configured to provide goods, services, and other items of value from said second party to said first party.

Shavit, in the same field of endeavor teaches a method of electronically facilitating commercial transactions. Shavit teaches providing a shipping agent (freight services) associated with a transaction mechanism said shipping agent configured to transmit said item from said second party (suppliers) (see Figure 2 and col. 5-6) to said first party (buyers). Shavit further teaches causing said item to be received by said shipping agent from said second party and

Art Unit: 3624

causing said item to be delivered by shipping agent to said first party (see at least col. 11 L 14-21, a supplier to procure a needed item and a freight carrier to arrange for shipment)

It would have been obvious to one of ordinary skill in the art at the time of invention to modify Walker as per Shavit to provide a shipping agent as claimed because it would provide facilitate communication for shipment of goods once the purchase conditions are met, thereby improving speed of shipment.

Please refer to prior office action for detailed analysis of claims 2-5 and 7-10.

Claim 15. The method of claim 6, comprising the step of receiving notification by said transaction mechanism from said shipping agent that said first party has received goods, services, and other value shipped from said shipping agent.

(see col. 22 “only after goods have been received by the buyer are the funds transferred ..”, note that receiving notification is inherent because the central controller performs the escrow function)

Claim 16. The method of claim 6, comprising the step of providing an intermediary to facilitate said transaction between said first party and said second party.

(see for example, Fig. 1, refer to central controller 200 which performs the functions of an intermediary)

Claim 19. wherein the step of providing a shipping agent comprises maintaining by said transaction mechanism at least one of said first party's and said second party's identity and address in confidence with respect to either said first or said second party.

(refer to Walker “Delayed Payment Embodiment”, col. 22, note that the payment is carried out by the central controller who acts as an escrow agent).

Refer to claim 6 for motivation statement.

Claims 21-25 have been analyzed as per respective method claims 2-6. All limitations have been recited in the cited references.

Claim 38 corresponds to method claim 6 and has been analyzed accordingly.

Claims 53, 57 and 58 have been analyzed as per respective method claims 2-6. For hardware elements of the device please refer to Figures 2-4.

Art Unit: 3624

Claim 54: network interface in communication with said central processor (see Figure 2).

Claim 55: storage device ..customer transaction records database.. (see Fig. 2 Buyer database).

Claims 56: said memory comprises a risk management module, transaction control module and an authentication module (see data storage device 250 having contract detail database 280, cryptographic key database 290 and CPO database which is accessible by CPU 205)

Claims both explicitly meet 61-64 cited references of Walker and Shavit since the commercial transaction pertain to item of values.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (571) 272-6748. The examiner can normally be reached on 800AM-600PM M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 517-273-8300.

Art Unit: 3624

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jagdish N. Patel

(Primary Examiner, AU 3624)

10/12/05